



DIVISION OF
ENFORCEMENT

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

May 30, 2024

BY EMAIL (payson@nywd.uscourts.gov)

Hon. Marian W. Payson
United States Magistrate Judge
100 State Street
Rochester, New York 14614

Re: SEC v. City of Rochester et al., Case No. 22-cv-6273-EAW-MWP

Dear Judge Payson,

We represent Plaintiff Securities and Exchange Commission ("SEC") in the above-referenced matter. We write on behalf of all parties to request a 90-day stay of the case for the parties to pursue settlement.

By way of background, this litigation concerns two separate sets of claims: those arising from Defendant City of Rochester's bond offering in August 2019 (the "Bond Offering Claims") and those relating to alleged regulatory violations by Defendants Capital Markets Advisors, LLC, Richard Ganci, and Richard Tortora (collectively, the "CMA Defendants") (the "Regulatory Claims"). With respect to the Bond Offering Claims, the parties have completed all document discovery and currently are in the process of taking several depositions. The depositions follow Chief Judge Wolford's denial of Defendants' motion for judgment on the pleadings [ECF 94], and the Court's revised scheduling order permitting depositions to proceed. [ECF 97] With respect to the Regulatory Claims, Chief Judge Wolford granted summary judgment in favor of the SEC as to liability [ECF 98]; the parties have not yet briefed, and the Court accordingly has not yet addressed, the appropriate remedies for the determined regulatory violations.

The parties believe that settlement of this case may be possible, at least in substantial part. The SEC and Defendants City of Rochester and Rosiland Brooks-Harris ("City Defendants") recently have engaged in further settlement discussions. Counsel for the SEC believes that there is sufficient momentum for a potential settlement that justifies staying this matter so that the parties can attempt to finalize terms and have the Commission consider it. The SEC process will take several weeks to complete. Separately, the SEC and CMA Defendants desire to have further settlement discussions.

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The SEC and CMA Defendants believe that they may be able to resolve at least some of the issues in the case even if resolution of all issues is not possible.

Given the prospect of settlement, the parties want to avoid the substantial cost and resources to take and defend several additional depositions, as well as to prepare expert reports and engage in expert discovery. The parties accordingly respectfully propose that all current case deadlines be adjourned and that the case be stayed for a period of 90 days. The parties further propose that: (1) the parties promptly shall file any proposed settlement with the Court for the Court's consideration, and (2) the parties shall provide a status report to the Court on or before August 29, 2024, if the case has not been finally resolved by that date.

Thank you for your consideration of this joint request.

Respectfully submitted,



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cc: All counsel (by email)

The joint request to stay the matter is granted in part insofar as this matter is stayed for 90 days from the date of this Order. A **Telephone Status Conference** will be held with the undersigned on **August 28, 2024**, at **11:20 a.m.** Dial-in instructions will be emailed to counsel prior to the conference.
IT IS SO ORDERED.

s/Marian W. Payson
Hon. Marian W. Payson
United States Magistrate Judge

Dated: May 30, 2024